

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1047**

Citations Affected: IC 33-4-3-7; IC 33-5-2-4; IC 33-10.1-6-10; IC 33-10.5-7-1; IC 33-11.6-4-2; IC 33-11.6-4-3; IC 33-19-5-5; IC 33-19-7.

Synopsis: Small claims. Makes the small claims jurisdictional limit \$6,000 across the state. Requires a person who files a small claims action to pay a small claims service fee of \$5 per defendant after June 30, 2005. **(This conference committee report fixes the small claims service fee at \$5 per defendant and makes the effective date July 1, 2005. The prior version set the service fee at the actual cost of service beginning July 1, 2003.)**

Effective: July 1, 2005.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1047 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 33-4-3-7, AS AMENDED BY P.L.2-2002,
- 3 SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2005]: Sec. 7. The small claims docket has jurisdiction over
- 5 the following:
- 6 (1) Civil actions in which the amount sought or value of the
- 7 property sought to be recovered is not more than ~~three six~~ thousand
- 8 dollars ~~(\$3,000)~~ **(\$6,000)**. The plaintiff in a statement of claim or
- 9 the defendant in a counterclaim may waive the excess of any claim
- 10 that exceeds ~~three six~~ thousand dollars ~~(\$3,000)~~ **(\$6,000)** in order
- 11 to bring it within the jurisdiction of the small claims docket.
- 12 (2) Possessory actions between landlord and tenant in which the
- 13 rent due at the time the action is filed does not exceed ~~three six~~
- 14 thousand dollars ~~(\$3,000)~~ **(\$6,000)**.
- 15 (3) Emergency possessory actions between a landlord and tenant
- 16 under IC 32-31-6.
- 17 SECTION 2. IC 33-5-2-4, AS AMENDED BY P.L.2-2002,
- 18 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 19 JULY 1, 2005]: Sec. 4. ~~(a) Except as provided in subsection (b),~~ The
- 20 small claims docket has jurisdiction over the following:
- 21 (1) Civil actions in which the amount sought or value of the
- 22 property sought to be recovered is not more than ~~three six~~ thousand

dollars ~~(\$3,000)~~ **(\$6,000)**. The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds ~~three thousand dollars (\$3,000)~~ **six thousand dollars (\$6,000)** in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed ~~three six thousand dollars (\$3,000):~~ **(\$6,000)**.

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

~~(b) This subsection applies to a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000). The small claims docket has jurisdiction over the following:~~

~~(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars (\$6,000) in order to bring it within the jurisdiction of the small claims docket.~~

~~(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars (\$6,000):~~

~~(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6:~~

SECTION 3. IC 33-10.1-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-19-1-3. The fees received by the controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(b) If the party instituting an action or proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee **and the small claims service fee** prescribed under IC 33-19-5-5.

(c) Money paid in advance for costs remaining unexpended at the time an action or proceeding is terminated, whether by reason of dismissal or otherwise, shall be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of its political subdivisions.

SECTION 4. IC 33-10.5-7-1, AS AMENDED BY P.L.2-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Each judge of the county court shall maintain the following dockets:

(1) An offenses and violations docket.

(2) A small claims docket for the following:

(A) All cases where the amount sought or value of the property sought to be recovered is ~~three six thousand dollars (\$3,000)~~

(~~\$6,000~~) or less. The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of his claim over ~~three~~ **six** thousand dollars (~~\$3,000~~) (**\$6,000**) to bring it within the jurisdiction of the small claims docket.

(B) All possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed ~~three~~ **six** thousand dollars (~~\$3,000~~) (**\$6,000**).

(C) Emergency possessory actions between a landlord and tenant under IC 32-31-4.

(3) A plenary docket for all other civil cases.

SECTION 5. IC 33-11.6-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The court shall have original and concurrent jurisdiction with the circuit and superior courts in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed six thousand dollars (\$6,000), not including interest or ~~attorney~~ **attorney's** fees.

SECTION 6. IC 33-11.6-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The court shall have original and concurrent jurisdiction with the circuit and superior courts in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed six thousand dollars (\$6,000). The court shall also have original and concurrent jurisdiction with the circuit and superior courts in actions for the possession of property where the value of the property sought to be recovered does not exceed six thousand dollars (\$6,000). These jurisdictional limitations shall not be affected by interest and ~~attorney~~ **attorney's** fees.

SECTION 7. IC 33-19-5-5, AS AMENDED BY P.L.164-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a:

- (1) small claims costs fee of thirty-five dollars (\$35); and
- (2) **small claims service fee of five dollars (\$5) for each defendant named or added in the small claims action.**

However, a clerk may not collect a small claims costs fee **or small claims service fee** for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee **and small claims service fee** collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A document storage fee (IC 33-19-6-18.1).
- (3) An automated record keeping fee (IC 33-19-6-19).

SECTION 8. IC 33-19-7-1, AS AMENDED BY P.L.39-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-19-5-3(a) (juvenile costs fees).

(4) IC 33-19-5-4(a) (civil costs fees).

(5) ~~IC 33-19-5-5(a)~~ **IC 33-19-5-5(a)(1)** (small claims costs fees).

(6) IC 33-19-5-6(a) (probate costs fees).

(7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-19-6-19).

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-19-6-1.5 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance under subdivision (1), the county auditor shall deposit all the fees in the

1 county general fund.

2 (f) The clerk of the circuit court shall semiannually distribute to the
3 auditor of state for deposit in the sexual assault victims assistance fund
4 established under IC 16-19-13-6 one hundred percent (100%) of the
5 sexual assault victims assistance fees collected under IC 33-19-6-21.

6 (g) The clerk of a circuit court shall monthly distribute to the county
7 auditor the following:

8 (1) One hundred percent (100%) of the support and maintenance
9 fees for cases designated as non-Title IV-D child support cases in
10 the Indiana support enforcement tracking system (ISETS) collected
11 under IC 33-19-6-5.

12 (2) The percentage share of the support and maintenance fees for
13 cases designated as IV-D child support cases in ISETS collected
14 under IC 33-19-6-5 that is reimbursable to the county at the federal
15 financial participation rate.

16 The county clerk shall monthly distribute to the office of the secretary
17 of family and social services the percentage share of the support and
18 maintenance fees for cases designated as Title IV-D child support cases
19 in ISETS collected under IC 33-19-6-5 that is not reimbursable to the
20 county at the applicable federal financial participation rate.

21 **(h) The clerk of a circuit court shall monthly distribute to the**
22 **county auditor one hundred percent (100%) of the small claims**
23 **service fee under IC 33-19-5-5(a)(2) for deposit in the county**
24 **general fund.**

25 SECTION 9. IC 33-19-7-2 IS AMENDED TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2005]: Sec. 2. The clerk of a circuit court shall
27 forward the county share of fees collected to the county auditor in
28 accordance with IC 33-19-1-3(a). The auditor shall retain as the county
29 share twenty-seven percent (27%) of the amount of fees collected
30 under the following:

- 31 (1) IC 33-19-5-1(a) (criminal costs fees).
- 32 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- 33 (3) IC 33-19-5-3(a) (juvenile costs fees).
- 34 (4) IC 33-19-5-4(a) (civil costs fees).
- 35 (5) ~~IC 33-19-5-5(a)~~ **IC 33-19-5-5(a)(1)** (small claims costs fees).
- 36 (6) IC 33-19-5-6(a) (probate costs fees).
- 37 (7) IC 33-19-6-16.2 (deferred prosecution fees).

38 SECTION 10. IC 33-19-7-3, AS AMENDED BY P.L.98-2000,
39 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2005]: Sec. 3. (a) The qualified municipality share to be
41 distributed to each city and town maintaining a law enforcement
42 agency that prosecutes at least fifty percent (50%) of its ordinance
43 violations in a circuit, superior, or county court located in the county
44 is three percent (3%) of the amount of fees collected under the
45 following:

- 46 (1) IC 33-19-5-1(a) (criminal costs fees).
- 47 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- 48 (3) IC 33-19-5-3(a) (juvenile costs fees).
- 49 (4) IC 33-19-5-4(a) (civil costs fees).
- 50 (5) ~~IC 33-19-5-5(a)~~ **IC 33-19-5-5(a)(1)** (small claims costs fees).
- 51 (6) IC 33-19-5-6(a) (probate costs fees).

- 1 (7) IC 33-19-6-16.2 (deferred prosecution fees).
- 2 (b) The county auditor shall determine the amount to be distributed
- 3 to each city and town qualified under subsection (a) as follows:
- 4 STEP ONE: Determine the population of the qualified city or town.
- 5 STEP TWO: Add the populations of all qualified cities and towns
- 6 determined under STEP ONE.
- 7 STEP THREE: Divide the population of each qualified city and
- 8 town by the sum determined under STEP TWO.
- 9 STEP FOUR: Multiply the result determined under STEP THREE
- 10 for each qualified city and town by the amount of the qualified
- 11 municipality share.
- 12 (c) The county auditor shall semiannually distribute to each city and
- 13 town described in subsection (a) the amount computed for that city or
- 14 town under STEP FOUR of subsection (b).
- 15 SECTION 11. IC 33-19-7-4, AS AMENDED BY P.L.1-2002,
- 16 SECTION 141, IS AMENDED TO READ AS FOLLOWS
- 17 [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The clerk of a city or town
- 18 court shall semiannually distribute to the auditor of state as the state
- 19 share for deposit in the state general fund fifty-five percent (55%) of
- 20 the amount of fees collected under the following:
- 21 (1) IC 33-19-5-1(a) (criminal costs fees).
- 22 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- 23 (3) IC 33-19-5-4(a) (civil costs fees).
- 24 (4) ~~IC 33-19-5-5~~ **IC 33-19-5-5(a)(1)** (small claims costs fees).
- 25 (5) IC 33-19-6-16.2 (deferred prosecution fees).
- 26 (b) Once each month the city or town fiscal officer shall distribute to
- 27 the county auditor as the county share twenty percent (20%) of the
- 28 amount of fees collected under the following:
- 29 (1) IC 33-19-5-1(a) (criminal costs fees).
- 30 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- 31 (3) IC 33-19-5-4(a) (civil costs fees).
- 32 (4) ~~IC 33-19-5-5~~ **IC 33-19-5-5(a)(1)** (small claims costs fees).
- 33 (5) IC 33-19-6-16.2 (deferred prosecution fees).
- 34 (c) The city or town fiscal officer shall retain twenty-five percent
- 35 (25%) as the city or town share of the fees collected under the
- 36 following:
- 37 (1) IC 33-19-5-1(a) (criminal costs fees).
- 38 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- 39 (3) IC 33-19-5-4(a) (civil costs fees).
- 40 (4) ~~IC 33-19-5-5~~ **IC 33-19-5-5(a)(1)** (small claims costs fees).
- 41 (5) IC 33-19-6-16.2 (deferred prosecution fees).
- 42 (d) The clerk of a city or town court shall semiannually distribute to
- 43 the auditor of state for deposit in the state user fee fund established
- 44 under IC 33-19-9 the following:
- 45 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
- 46 interdiction, and corrections fees collected under
- 47 IC 33-19-5-1(b)(5).
- 48 (2) Twenty-five percent (25%) of the alcohol and drug
- 49 countermeasures fees collected under IC 33-19-5-1(b)(6),
- 50 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- 51 (3) One hundred percent (100%) of the highway work zone fees

1 collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

2 (4) One hundred percent (100%) of the safe schools fee collected
3 under IC 33-19-6-16.3.

4 (5) One hundred percent (100%) of the automated record keeping
5 fee (IC 33-19-6-19).

6 (e) The clerk of a city or town court shall monthly distribute to the
7 county auditor the following:

8 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
9 interdiction, and corrections fees collected under
10 IC 33-19-5-1(b)(5).

11 (2) Seventy-five percent (75%) of the alcohol and drug
12 countermeasures fees collected under IC 33-19-5-1(b)(6),
13 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

14 The county auditor shall deposit fees distributed by a clerk under this
15 subsection into the county drug free community fund established under
16 IC 5-2-11.

17 (f) The clerk of a city or town court shall distribute monthly to the
18 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred
19 percent (100%) of the late payment fees collected under IC 33-19-6-20.
20 The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit
21 fees distributed by a clerk under this subsection in the city or town
22 general fund.

(Reference is to HB 1047 as reprinted April 8, 2003.)

Conference Committee Report
on
Engrossed House Bill 1047

Signed by:

Representative Grubb
Chairperson

Senator Long

Representative Ulmer

Senator Howard

House Conferees

Senate Conferees